REMARKS

This Amendment is responsive to the office action dated September 20, 2005. Claims 17-23, 25-40, 42-64, and 66-205 are pending and stand rejected. Also the office action indicated that the information disclosure statement filed on August 26, 2005, fails to fully comply with the 37 CFR 1.98(a)(2). Applicant respectfully submits that an information disclosure statement and forms PTO-1449 are contemporaneously filed with this amendment. With the information disclosure statement, copies of all the foreign patents and articles are also submitted. Consideration of these documents is respectfully submitted.

In paragraph 3, the office action withdraws the indicated allowability of claims 29-38, 59-62, 77-85, 107-110, 171-179, and 201-204 in view of further consideration of the previously applied reference to Shavit et al. In paragraph 5, claims 72, 121, 123, and 167 are rejected under 35 U.S.C. Section 112, first paragraph. The office action takes the position that the *"request form"* of Figure 9, which includes the price data is transmitted to vendors who are authorized to sell the designated merchandise, as identified by the merchandise code on the request form. The office action states that there is *"no description of the control system isolating or communicating with vendors based on maximum purchase amount or price."* Once again, contrary to the allegation in the office action, the control system must still determine which particular vendor is authorized to sell the designated merchandise, albeit by using the merchandise code indicated on the buyer's request form before routing the request to an authorized vendor. At the very least, to that extent, Applicant contends that the control system does utilize the data on the request form including the price that the buyers do not wish to exceed ("Under $2.00 net cost") to determine appropriate vendors for communication with the buyer transmitting that request . If the criteria

indicated on the request form was not of any relevance, the entire exercise of routing the request to vendors that are appropriate would be futile. Claims 72, 121, 123, and 167 are further amended to emphasize the operations described above.

Claims 17-23, 25-40, 42-64, and 66-205 are rejected under 35 U.S.C. Section 103(a) as unpatentable over Shavit et al. in view of Lockwood, The office action acknowledges that Shavit is deficient from the claims in that *"it does not specify the control system processing the input data to isolate at least one select vendor site from a plurality of vendor sites based on the area of commercial interest designated by the buyer and an indication including select video data presentations."* To fill that deficiency, the office action relies on Lockwood, indicating that it teaches *"the desirability of having a central processor 222 select an appropriate vendor-supplied data source associated with the customer's request."* Applicant respectfully submits that there is no motivation to combine the references as indicated by the office action. There is no explicit teaching in Shavit that invites a combination of the references as suggested by the office action. To that end, with respect to this obviousness rejection, Applicant respectfully points the Patent Office's attention to the following case law and requests reconsideration of this rejection.

Applicant respectfully submits that the rejection for obviousness is improper because there is nothing in the cited prior art references, either singly or in combination, to suggest the desirability of the claimed subject matter. That the construction in a particular prior art reference would have resulted in the claimed combination had it followed the "common practice" of attaching certain parts does not show obviousness at the time of the invention but rather reflects improper hindsight analysis and the reading into the art of Applicant's own teachings.

In re Raynes, 7 F.3d 1037, 1039 (Fed. Cir. 1993):

When determining whether a new combination of known elements would have been obvious in terms of 35 U.S.C. § 103, the analytic focus is upon the state of knowledge at the time the invention was made. The Commissioner bears the burden of showing that such knowledge provided some teaching, suggestion, or motivation to make the particular combination that was made by the applicant. *In re Oetiker,* 977 F.2d 1443, 1445-47, 24 U.S.P.Q.2D (BNA) 1443, 1444-46 (Fed. Cir. 1992); *In re Piasecki,* 745 F.2d 1468, 1471-72, 223 U.S.P.Q. (BNA) 785, 788 (Fed. Cir. 1984). This determination is made from the viewpoint of the hypothetical person of ordinary skill in the field of the invention. 35 U.S.C. § 103; *In re Gorman,* 933 F.2d 982, 986, 18 U.S.P.Q.2D (BNA) 1885, 1888 (Fed. Cir. 1991).

In re Deminski, 796 F.2d 436, 442 (Fed. Cir. 1986):

"There was no suggestion in the prior art to provide Deminski with the motivation to design the valve assembly so that it would be removable as a unit. The board argues that if Pocock had followed the "common practice" of attaching the valve stem to the valve structure, then the valve assembly would be removable as a unit. The only way the board could have arrived at its conclusion was through hindsight analysis by reading into the art Deminski's own teachings. Hindsight analysis is clearly improper, since the statutory test is whether "the subject matter as a whole would have been obvious at the time the invention was made." 35 U.S.C. § 103 (1982); *In re Sponnoble*, 56 C.C.P.A. 823, 405 F.2d 578, 585, 160 U.S.P.Q. (BNA) 237, 243 (CCPA 1969)."

Reconsideration is respectfully requested in view of the present form of the claims and the above arguments.

Respectfully submitted,

Dated: March 20, 2006

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